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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 04/18/2003

CURTIS B. HAMRE  
P.O. BOX 2903  
MINNEAPOLIS, MN 55402-0903

EXAMINER

SOOHOO, TONY GLEN

ART UNIT CLASS-SUBCLASS

1723 366-139000

DATE MAILED: 04/18/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/968,034	11/12/1997	SOREN JONSSON	C-35890	8018

TITLE OF INVENTION: METHOD AND DEVICE FOR FEEDING COMPONENTS FOR BONE CEMENT INTO A MIXING VESSEL FOR THESE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$650	\$0	\$650	07/18/2003

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

Applicant claims SMALL ENTITY status.  
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail Box ISSUE FEE**  
**Commissioner for Patents**  
**Washington, D.C. 20231**  
**Fax (703)746-4000**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

**CURRENT CORRESPONDENCE ADDRESS** (Note: Legibly mark-up with any corrections or use Block 1)  
 7590 04/18/2003

**CURTIS B. HAMRE**  
**P.O. BOX 2903**  
**MINNEAPOLIS, MN 55402-0903**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

**Certificate of Mailing or Transmission**  
 I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)  
 \_\_\_\_\_  
 (Signature)  
 \_\_\_\_\_  
 (Date)  
 \_\_\_\_\_

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EXAMINER	ART UNIT	CLASS-SUBCLASS
SOOHOON, TONY GLEN	1723	366-139000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
 "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_

**3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)**

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent)  individual  corporation or other private group entity  government

4a. The following fee(s) are enclosed:

4b. Payment of Fee(s):

Issue Fee  
 Publication Fee  
 Advance Order - # of Copies \_\_\_\_\_

A check in the amount of the fee(s) is enclosed.  
 Payment by credit card. Form PTO-2038 is attached.  
 The Commissioner is hereby authorized to charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

(Date)

**NOTE:** The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)



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CURTIS B. HAMRE			SOOHOO, TONY GLEN	
P.O. BOX 2903				
MINNEAPOLIS, MN 55402-0903			ART UNIT	PAPER NUMBER
UNITED STATES			1723	
				DATE MAILED: 04/18/2003

**Determination of Patent Term Extension under 35 U.S.C. 154 (b)**  
(application filed after June 7, 1995 but prior to May 29, 2000)

The patent term extension is 0 days. Any patent to issue from the above identified application will include an indication of the 0 day extension on the front page.

If a continued prosecution application (CPA) was filed in the above-identified application, the filing date that determines patent term extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system. (<http://pair.uspto.gov>)

Any questions regarding the patent term extension or adjustment determination should be directed to the Office of Patent Legal Administration at (703)305-1383.



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CURTIS B. HAMRE P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903 UNITED STATES			SOOHOO, TONY GLEN	
			ART UNIT	PAPER NUMBER
			1723	
			DATE MAILED: 04/18/2003	

**Notice of Fee Increase on January 1, 2003**

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after January 1, 2003, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" since there will be an increase in fees effective on January 1, 2003. See Revision of Patent and Trademark Fees for Fiscal Year 2003; Final Rule, 67 Fed. Reg. 70847, 70849 (November 27, 2002).

The current fee schedule is accessible from: <http://www.uspto.gov/main/howtofees.htm>.

If the issue fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due," but not the correct amount in view of the fee increase, a "Notice to Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice to Pay Balance of Issue Fee," if the response to the Notice of Allowance and Fee(s) due form is to be filed on or after January 1, 2003 (or mailed with a certificate of mailing on or after January 1, 2003), the issue fee paid should be the fee that is required at the time the fee is paid. If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously paid issue fee should be paid. See Manual of Patent Examining Procedure, Section 1308.01 (Eighth Edition, August 2001).

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	08/968,034	JONSSON, SOREN
	Examiner	Art Unit #26

Tony G Soohoo 1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 11/12/2002.
2.  The allowed claim(s) is/are 8-11, 14-16, 27-30, 32, 41, 42 and 45-49.
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

5.  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a)  The translation of the foreign language provisional application has been received.
6.  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8.  CORRECTED DRAWINGS must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1)  hereto or 2)  to Paper No. \_\_\_\_\_.
  - (b)  including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. hereto.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

<input type="checkbox"/> Notice of References Cited (PTO-892)	<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	<input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____.
<input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. <u>22</u>	<input checked="" type="checkbox"/> Examiner's Amendment/Comment
<input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material	<input type="checkbox"/> Examiner's Statement of Reasons for Allowance
	<input checked="" type="checkbox"/> Other copy of paper from 08/545591.

**DETAILED ACTION**

***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 11/12/2002 was filed concurrent with the request for RCE (paper no 21) on 11/12/2002 and before the mailing of a first Office action after the filing of a request for continued examination under § 1.114. The submission is in compliance with the provisions of 37 CFR 1.97(b)(4). Accordingly, the information disclosure statement is being considered by the examiner. See attachment copy.

***New Drawings Required***

2. The application having been allowed, formal drawings are required in response to this Office Action.

New corrected drawings are required in this application because Figures 13, 14 and 15 require a bracket about drawing elements to indicate that these are to be considered as a single figure. See redline markup attached in paper no 20 (examiner's amendment "F") mailed 8/9/2002. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

**Examiner's Remarks to Application History**

3. A partial summary of the events of the instant application 08/968,034 is as follows:

- 1) A Foreign application document SE 9301599 was filed in Sweden on 05/10/1993.
- 2) A PCT application, PCT/SE94/00415 was filed on 05/06/1994 claiming priority from the SE 9301599 document.
- 3) A U.S. national stage application was filed on 11/13/1995 with papers filed titled TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) whereby box 1, 3, 19 indicates a submission of filing under 35 USC 371 and "express request to immediately begin national examination procedures...", and a fee payment under 371. (See attached copies from parent 08/545591, two pages).
- 4) A Notification of Acceptance of Application under 35 USC 317 and 37 CFR 1.494 or 1.495, FORM PCT/DO/EO/903 was mailed to applicant on 1/29/1996.
- 5) A preliminary amendment "A", paper no 5, was filed along with a Substitute Specification on 11/13/1995 (concurrent with the filing of the U.S. national stage application). Claims 2-6 were cancelled. Claims 7-8 were amended. New claims 9-18 were filed. New drawing figures 7-13 were presented. A new specification was

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submitted. In the remarks section a statement with reference as a continuation-in-part filing was made on page 2 of paper no 5 of 08/545591 (see paper no 5. within file wrapper application 08/734817) . (No markup copy is supplied, and no new oath in reference to the new subject matter is supplied).

6) A SECOND FILED PRELIMINARY AMENDMENT "B" was filed on **11/13/1996**, with a reference of prosecution under Rule 162, Continuation-in-part, with additional changes to the specification (paper no 7 of 08/545591) (No new oath in reference to the new subject matter is supplied).

7) Upon examination upon, it was indicated by the examiner in the 1<sup>st</sup> Office action mailed 3/21/1996, paper no 8 (of 08/545591), that whereby the application was filed under 35 USC 371 and accepted as indicated by PCT Form 903, the application examined as a filing under 35 USC 371. Additionally, since the application did not formally request and fully comply with the requirements of a request for a C-I-P, the provision of a substitute specification (without a mark up copy, and a without new oath including a statement that applicant has reviewed and understands the specification and claims, and amendments), new additional drawings, and corresponding changes to the specification text was NOT ENTERED by the examiner for the reasons pointed out in paper no 5 of 08/545591, paragraph nos. 1-7. Although it was also pointed out the claims had been entered.

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8) In the 1<sup>st</sup> Office action, mailed 3/21/1996, paper no 8 of 08/545591 included objection to the drawings, claims objections, objections to the specification , (see paragraph nos 8-24), and claim rejections under 35 USC 112, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs.

9) A request for a 10/22/1996 a File-Wrapper-Continuation/ Continuation-in-Part (now file wrapper 08/734,817) was made in paper no.9.

10) Preliminary amendments "C", "D" were filed on 10/22/1996 (08/734,817) paper nos. 10 and 11. In particular, amendment "C" revised the 1<sup>st</sup> line of the specification to reflect the file history and priory. Preliminary amendment paper no 10 included drawings, changes to the specification, claim amendment and new claims. . .  
Amendment "D" amended claim 14 and added new claims 19-29. The preliminary amendment "D" directions to changes to the specification did not correspond to the original pending specification and thus was not entered.

11) Preliminary amendment "E", filed 11/13/1996 paper no 13(08/734,817) included directions to amend the specification, but was not entered because directions to changes to the specification did not correspond to the original pending specification.

12) An Office action mailed 6/23/1997, paper no 12. In the office action, stated that the amendments "D" and "E" were new entered because the directions did not correspond to the original specification, see paragraphs 5-7. Within paragraphs 8-10 of

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the Office Action, paper no 12, summary is made to the status of the subject matter and claims considered as of the filing of the C-I-P (file wrapper) 08/734,817. The office action indicated that new oath was required since the previous oath (10/11/1996) did not properly identify preliminary amendments filed (10/22/1996). The drawing and specification were objected to in paragraphs 12-17. The specification was objected to under 35 USC 112, 1<sup>st</sup> and second paragraphs. Claims were rejected under 35 USC 112, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs.

13) A notice of abandonment, paper no 13, was mailed on 5/7/1998 whereas no response was received.

14) A petition to revive was filed 12/3/2001 in paper no 14.

15) Petition to revive was granted on 3/27/2002, revived solely for purposes of continuity, in favor of continuing application no 08/968034, in paper no 18.

16) A preliminary amendment "A" updating the 1<sup>st</sup> line of the specification with the status of the instant application, paper no. 2, of the new application file wrapper 08/968034 and was filed concurrent with the filing of the continuation application on 11/12/1997.

17) A petition and supplemental papers were filed 11/20,1998 and 3/22/2000 in paper nos. 4 and 5, filed as construed as requesting that the application filed under 37 CFR

1.62 on 11/12/1997 to be treated as an application under 37 CFR 1.53(b). See below petition decision (18).

18) A Decision granting the petition was mailed on 10/12/2000, paper no. 6., granting the filing of the application under 37 CFR 1.53(b) and accorded a filing date of 11/12/1997. (cendency was established in the petition (see above 14-15) in 08/734,817 paper no 14, mailed 12/3/01, and granted in paper no 18, mailed 3/27/02).

19) A supplemental NEW oath was supplied filed 5/30/2000, paper no 7.

20) Preliminary amendments "B" and "C" were filed respectively on 11/20/1998 and 6/26/2000 and entered in the file wrapper as paper nos. 9 and 10 included amendments to the claims, and a markup copy of the specification as cleaned up as a "clean" copy on file of 11/12/1997.

21) A restriction requirement was made on 6/28/2001, paper no. 11.

22) A response and amendment "D" was filed on 9/24/2002, paper no 15.

23) A 1<sup>st</sup> office action upon 08/968034 was mailed on 12/3/01, paper no 16.

24) An IDS and amendment "E" was filed on 5/7/2002 and 10/3/2002, respectively as paper nos. 18 and 19.

25) An examiner's amendment and Notice of Allowance was mailed on 8/12/02, paper no 20.

26) A request for RCE and IDS was filed on 11/12/2002.

27) A petition, paper no 24 filed on 10/01/2002, requests to treat to the application 08/545591, filed 11/13/1995 as a filing under 35 USC 111(a) rather than 35 USC 371, and to treat the original application papers filed upon the 11/13/1995 date as original application papers filed on that date.

28) The petition is dismissed on 03/26/2003 by the PCT legal office in paper no 25.

#### ***Allowable Subject Matter***

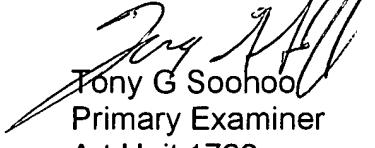
4. Claims 8-11,14-16,27-30,32,41,42 and 45-49 are allowed.

#### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G Soohoo whose telephone number is (703) 308-2882. The examiner can normally be reached on 7:00 AM - 5:00 PM, Tues. - Fri.. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this

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application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Tony G Soohoo  
Primary Examiner  
Art Unit 1723

tgs